

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:

Norman E. Nitzsche

Serial No.: 10/763,538
Filed: January 23, 2004

For: COMPATIBLE MULTI-
FUNCTIONAL COLOR
CONCENTRATE COMPOSITIONS

Group Art Unit: 1755

Examiner:

INFORMATION DISCLOSURE STATEMENT

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

Pursuant to 37 C.F.R. § 1.56 and § 1.97-1.99, Form PTO-FB-A820 (aka 1449) is enclosed for consideration by the Examiner. Pursuant to the Official Gazette Notice of August 5, 2003, this Information Disclosure Statement is provided without copies of U.S. Patents or PGPUBs.

Applicant's Assignee also advises the Office of its interpretation of U.S. Pat. No. 5,176,751 (Findley) as prior art. This interpretation is a revision and an improvement to the interpretation provided in the Response of December 2, 2003 to Application Serial No. 10/150,305. But the prior interpretation remains correct for the point that Findley did not disclose or suggest the combination of pigment and blowing agent together in a single pellet, which is what the claims of Application '305 require.

Findley principally discloses a color concentrate composition OR an additive composition. Findley frequently uses the verb "substitute", meaning that Findley teaches either a pigmented concentrate or an additive-filled concentrate, but not both pigment and additive in the same pellet¹, with the exceptions of Examples 4 and 5.

¹ Even the claims of Findley seem to be mutually exclusive in composition of the claimed pellet. Claims 1-5, 7-12, 26-30 of Findley are for a pigmented concentrate. Claims 6, 13-25 are for an additive-filled concentrate.

I hereby certify that this correspondence is being deposited with the United States Postal Service as First Class Mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on:

June 17, 2004
Date

Signed

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In Example 4, Findley does disclose pigment and ultra-violet light stabilizer together in a pellet, but in those instances the ultra-violet light stabilizer is also functioning as the carrier in Findley's pellet (synonymous with "binder" in Applicant's claims.) Please see Col. 9, Lines 60-68.

In Example 5, Findley discloses pigment, ultra-violet light stabilizer, and wax binder together in a single pellet, also with EVA which is a polymer and is identified as having good compatibility with thermoplastic polymers. Please see Col. 9, Lines 2-6. But there the teaching ends.

Because it seems that the ultra-violet light stabilizer also can function as a carrier, Findley does not teach beyond the combination of the ultra-violet light stabilizer with pigment. Indeed, when Findley begins discussion at Col. 11, lines 18 et seq., the "substitution" concept also begins. Additives are "substituted for" pigments. Please see Examples 8-11 which repeated uses the term "substitute".

Even though UV Light Stabilizers has its own separate Example 11, an additive substitution for pigment, that becomes further evidence that Findley does not teach or suggest the combination of a colorant with any functional additive (as Applicant uses such term) other than as seen in Examples 4 and 5 and there only with respect to UV Light Stabilizers. Additional evidence of the barrier beyond UV Light Stabilizers is found in the claims. Please also see Claims 9, 11, and 29 ("pigment claims") as compared with Claims 19, 23, and 25 ("additive claims").

Claim 29, which depends from Claim 11 that requires the carrier to "consist of an ultraviolet light stabilizer" might also allow the possibility of some other ingredient besides light stabilizer and pigment, but not if one adds up the pigment concentration from Claim 1 and also Claim 29, such that the claimed pellet is made of only two ingredients: pigment and light stabilizer. Claim 29 explicit states that there is more pigment than recited in Claim 1. That interpretation of only two ingredients seems consistent with the remainder of Findley: no contemplation of pigment together with a functional additive other than a UV light stabilizer.

Therefore, Findley never teaches nor suggests the combination of colorant or pigment, wax binder or carrier, and a functional additive, other than UV Light Stabilizer, together in a single pellet.

For that reason, Applicant has amended his claims by Preliminary Amendment to recite colorant, wax binder, compatible polymer, and a functional additive from a Markush Group that does not include stabilizer. The recitation of stabilizer appears in Amended Claim 3.

June 17, 2004
Date

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Enclosures

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OMB No. 0651-0011

INFORMATION DISCLOSURE STATEMENT	Atty. Docket No.: 1200304R	Serial No.: 10/763,538
	Applicant(s): Norman E. NITZSCHE	
	Filing Date: January 23, 2004	Group: 1755

U.S. PATENT DOCUMENTS

Examiner Initial	Document Number	Date	Name	Class	SubClass	Filing Date If Appropriate
	3,778,288	12/11/73	Ridge et al.	106	272	
	3,844,810	10/29/74	Pollard	106	308	
	4,092,285	5/30/78	Leo et al.	260	28.5 R	
	4,230,501	10/28/80	Howard et al.	106	308	
	5,176,751	1/5/1993	Findley	106	502	
	5,395,456	3/7/1995	Abrams, et al.	134	22.14	
	5,443,768	8/22/1995	Scheibelhoffer et al.	264	39	
	6,384,002	5/7/02	Nitzsche	510	188	
	6,617,295	9/9/03	Nitzsche	510	188	
	US2002/0193267	12/19/02	Nitzsche	510	188	
	US2002/0198121	12/26/02	Nitzsche	510	188	
	US2002/0198122	12/26/02	Nitzsche	510	188	

FOREIGN PATENT DOCUMENTS

	Document Number	Date	Country	Class	SubClass	Translation	
						Yes	No
	GB 2 087 787 A	6/3/82	United Kingdom				

OTHER DOCUMENTS (Including Authors, Title, Date, Pertinent Papers, etc.)

EXAMINER	Date Considered

*Examiner: Initial if reference considered, whether or not citation is in conformance with MPEP 609; Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant.

Based on Form PTO-FB-A820
(Also form PTO-1449)

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